

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: POLITICO Pro Energy
Sent: Wed 3/28/2018 9:52:07 AM
Subject: Morning Energy: Friends in high places — Survey tracks concern for global warming — Anti-Pruitt ads aimed at Trump

By Kelsey Tamborrino | 03/28/2018 05:50 AM EDT

With help from Emily Holden and Nick Juliano

FRIENDS IN HIGH PLACES: EPA announced Tuesday that it had reached a cooperative research agreement with Israeli company Water-Gen, almost a year after Administrator Scott Pruitt met with the company at the request of GOP megadonor Sheldon Adelson. As part of the agreement, the agency will study one of the company's products: an "atmospheric water generator" that essentially acts as a giant dehumidifier to make drinkable water out of the air. The technology could be useful following large-scale disasters, like last year's Hurricanes Harvey and Irma. "EPA believes in facilitating cooperative research efforts that will foster innovative solutions to pressing environmental issues, and looks forward to working with other companies and organizations on technology development efforts," Pruitt said in a statement Tuesday.

Pro's Alex Guillén reports Pruitt met with Water-Gen executives — including its executive chairman and U.S. division president — on March 29, 2017 at the "request of Sheldon Adelson," according to copies of his calendar released after activists sued. Adelson's relationship with the company is unclear. It is also not clear whether the executives specifically pitched an R&D agreement at that meeting. And Adelson wasn't the company's only high-profile fan. Alan Dershowitz, the prominent American attorney and a member of Water-Gen's board of directors, pitched the technology at last year's gathering of American Israel Public Affairs Committee, just two days before the Pruitt meeting.

The agreement itself is not unusual, Alex reports. Known as a Cooperative Research and Development Agreement, the agreement lets EPA work with the company on testing the generators and studying potential uses in the U.S. The agency said it entered into eight similar agreements during fiscal year 2017, and dozens of less complex agreements to share data or materials. EPA did not pay the company and is not being paid, it said. Read more.

WELCOME TO WEDNESDAY! I'm your host Kelsey Tamborrino. Josh Cohen, host of the "More Power To You" podcast, was first to identify former Commerce Secretary Donald Evans as the only former Cabinet member to be selected as "designated survivor" twice during past State of the Union addresses. For today: What is the longest U.S. river that does not form a state border? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](https://twitter.com/kelseytam), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

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SURVEY SAYS: Concern for global warming remains steady among Americans, but the partisanship that clings to the issue is only widening, a new survey out today from Gallup found. Despite a president who has called global warming "a hoax" and a Cabinet filled with officials who reject mainstream climate science, the survey found the majority of Americans — 66 percent — overall say most scientists think global warming is occurring. Meanwhile, 64 percent say it's caused by human activity and a separate 60 percent believe the effects of the warming have already begun.

By the numbers: Forty-five percent of Americans say they believe global warming will pose a serious threat in their lifetime — the highest percentage ever recorded for that question since Gallup started asking in 1997. It was the only topic that saw increased concern among both major parties. Views on the issue, Gallup says, are becoming "increasingly partisan and therefore entrenched."

Parsing the divide: The poll found partisan gaps were widening slightly when compared with 2017. Sixty-nine percent of Republicans say global warming is exaggerated, while only 4 percent of Democrats say the same. As a whole, Democrats take global warming seriously, while Republicans view it skeptically, particularly in terms of whether they worry about the issue and believe it is caused by human activity.

Independents are trending toward Republicans, although a solid majority still view climate change as a problem, Gallup found. This year, 62 percent of independents said global warming is caused by human activities, down from 70 percent in 2017, while 62 percent said they worry a great deal or fair amount about the issue, a 5-point drop from last year. The poll was conducted March 1-8 among a random sample of 1,041 adults. Read the report here.

GREENS TRY TO GET TRUMP'S ATTENTION: Environmental and progressive advocates today launch a campaign to unseat Pruitt, with ads aimed right at President Donald Trump. The Sierra Club is running "Boot Pruitt" spots through Friday on "Fox & Friends" and "Morning Joe," shows watched by the president. The ad quotes Pruitt in a 2016 radio show calling Trump an "empty vessel," on the Constitution and rule of law and criticizes him for flying first class.

"Every audience needs to hear what Scott Pruitt is doing to our climate and air and water, including the president," Sierra Club Executive Director Michael Brune said. "We also want to make sure the president hears what Pruitt thinks of him." Sierra Club will promote the ad on Facebook markets in Oklahoma City and Tulsa, where Pruitt could be mulling a future run for office. Christy Goldfuss, vice president on energy and environment at the Center for American Progress, said calls from environmentalists might not be enough to get Pruitt to step down, but they add to criticism of his travel habits, his comments about the president and reports that the White House has disapproved of his ambition to become attorney general.

The 10-group effort includes a website, a Twitter account, petition drives, and digital ads on Twitter and in POLITICO, The Hill and Roll Call. Other groups involved are: Hip Hop Caucus, Friends of the Earth, Green For All, Defend Our Future, Green Latinos, League of Conservation Voters, Environmental Defense Fund and Natural Resources Defense Council. EPA spokesman Jahan Wilcox said the campaign is "old news as environmental groups have been recycling these

baseless attacks since the day Scott Pruitt was nominated." Pruitt is "proud to advance President Trump's agenda on regulatory certainty and environmental stewardship," he said.

WHITE HOUSE GETS NEW ENERGY AIDE: A career State Department official is heading to the White House to work on international energy policy, E&E reports. Landon Derentz, an adviser in State's Bureau of Energy Resources, is joining the National Economic Council, where he will report to Wells Griffith, who Trump brought in from the Energy Department earlier this month. More from E&E [here](#).

DOE LIFTS COAL IN NEW STUDY: New analysis from the Energy Department's National Energy Technology Laboratory touts coal as crucial to meeting power generation needs during severe weather, like the recent "bomb cyclone" that [elevated](#) wholesale natural gas and power prices around the country. The NETL [analysis](#), released Tuesday, examined organized markets for independent system operators during the recent deep freeze and found across six ISOs that coal provided 55 percent of the incremental daily generation needed. Combined, the analysis found fossil and nuclear energy plants provided 89 percent of electricity during peak demand across all six ISOs, with 69 percent coming from fossil energy plants, and nearly all from baseload sources.

"Coal was the most resilient form of power generation during the event and that removing coal from the energy mix would worsen threats to the electrical grid's dependability during future severe weather events," said Peter Balash of NETL's Energy Systems Analysis team, in a statement. The report echoes arguments from Energy Secretary Rick Perry's [earlier](#) failed attempt to prop up coal and nuclear plants in the name of grid resilience.

CEOs DEFEND RESPONSE: Meanwhile, utilities in New York defended their storm responses at a hearing in Albany where state lawmakers demanded change. CEOs from NYSEG, Con Edison and Central Hudson were grilled Tuesday on their companies' response to what they said were unprecedented winter storms, Pro's Marie French reports. Read [more](#).

FORD: WE AREN'T ASKING FOR A ROLLBACK: Ford Motor Company's Executive Chairman Bill Ford and President and CEO Jim Hackett penned a missive on fuel emissions standards on Tuesday, as an April 1 deadline to decide whether to rewrite the rules covering model year 2022-2025 vehicles edges closer. "We support increasing clean car standards through 2025 and are not asking for a rollback," the pair writes. "We want one set of standards nationally, along with additional flexibility to help us provide more affordable options for our customers. We believe that working together with EPA, NHTSA and California, we can deliver on this standard." Read it [here](#).

STORM SURGES: The Trump administration is quietly overhauling the nation's flood insurance program, bypassing Congress along the way, Pro's Zachary Warmbrodt reports. FEMA is pulling administrative levers to try to expand flood insurance coverage before future storms hit. The idea is to rely on assistance from the private insurance industry and the broader financial markets to address shortcomings that Harvey and other hurricanes exposed. Read [more](#).

WHERE'S PERRY? Keeping up with [his tour](#) of national labs, Perry will visit the SLAC

National Accelerator Laboratory today, where he'll also hold a town hall meeting at 9:30 a.m. The Energy secretary has spent the last few days in California, even stopping for In-N-Out Burger on Tuesday. See that [here](#).

IN THE BANK: Some of the world's largest banks funneled \$115 billion into fossil fuels last year, an increase of 11 percent from 2016, a new report that tracked 36 banks found. The report, from the Rainforest Action Network and other green groups, found that the single largest driver of that increase came from financing the tar sands sector. Read the report [here](#).

SUNSET, STRIPPED: While Trump weighs whether to pull the U.S. out of the Iran nuclear deal, former Energy Secretary Ernest Moniz refuted claims that the deal is flawed because of its "sunset clauses." Moniz wrote in The Boston Globe that the "most robust verification measures the world has ever known" are at the heart of the deal and argued against claims the deal just delays an inevitably armed Iran. "The monitoring requirement is nothing like the inadequate verification that was in place in Iran in the past," Moniz writes "... If Iran denies timely access to a suspected nuclear site, sanctions on Iran can be quickly snapped back in place, and the world will be required to enforce them. There is no sunset." Read it [here](#).

THAT'S A NEW ONE: A Massachusetts judge acquitted 13 protesters Tuesday, after they argued their pipeline protest was necessary to stop climate change. More than 200 protesters were arrested in 2015 for their protest of the West Roxbury Lateral Pipeline, 13 of which were set to go to trial on Tuesday, the West Roxbury Patch [reports](#). But Judge Mary Ann Driscoll of the West Roxbury District Court found all 13 defendants not guilty, after letting them testify briefly on the necessity of their actions. Each defendant outlined how he or she was driven to take part in the protest as part of a necessity to address climate change, the Independent [reports](#).

QUICK HITS

— North Korea is firing up a reactor. Why that could upset Trump's talks with Kim, [The New York Times](#).

— Fishermen suit against Atlantic marine monument moves ahead, [Associated Press](#).

— Move to open CRS reports spotlights agency's climate debate, [E&E News](#).

— Report: SCE&G can afford to lose most of the nuclear charges from customers, [The Post and Courier](#).

— Sources: California's ready to retaliate if Trump cuts auto rules, [Bloomberg](#).

— California attorney general says ready to defend vehicle efficiency standards, [Reuters](#).

HAPPENING TODAY

8:00 a.m. — The American Association of Petroleum Geologists holds [Super Basins Leadership Conference](#), Houston

9:00 a.m. — Western stakeholder discussion on "Putting the Public First — A Principled Vision for Oil and Gas Development on Our Public Lands," 14th and F Streets NW

11:30 a.m. — The George Washington University Elliott School of International Affairs discussion on "Russia and Energy Security in Southeast Europe," 1957 E Street NW

12:00 p.m. — The U.S. Energy Association brown bag discussion on reliability challenges and solutions, 1300 Pennsylvania Ave NW

5:30 p.m. — The Women's Council on Energy and the Environment hosts monthly Happy Hour, 1330 U St, NW

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To view online:

<https://www.politicopro.com/newsletters/morning-energy/2018/03/friends-in-high-places-152222>

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Anti-secrecy lawsuits soaring against Pruitt's EPA [Back](#)

By Emily Holden | 02/25/2018 06:25 PM EDT

The Environmental Protection Agency has experienced a huge surge in open records lawsuits since President Donald Trump took office, an analysis of data reviewed by POLITICO shows — a trend that comes amid mounting criticism of EPA's secrecy about Administrator Scott Pruitt's travels, meetings and policy decisions.

The legal attacks also reflect widespread interest in the sweeping changes Pruitt is enacting.

The suits have come from open government groups, environmentalists and even conservative organizations that have run into a wall trying to pry information out of Pruitt's agency. The documents they're seeking involve a broad swath of decisions, ranging from EPA's reversals of the Obama administration's landmark climate change and water rules to pesticide approvals and plans for dealing with the nation's most polluted toxic waste sites.

Several of the cases involve requests for the administrator's schedules and travel records, which EPA released routinely under past administrations but now refuses to make public except in response to lawsuits. Pruitt has drawn criticism for withholding information about those matters, and for the expenses he has run up by demanding round-the-clock security, installing an eavesdropping-proof chamber in his office and flying first class to avoid potential threats from critics in the coach cabins.

All told, plaintiffs have filed 55 public records lawsuits against EPA since Trump's inauguration,

according to POLITICO's review of a database of cases compiled by [The FOIA Project](#), an initiative run by the Transactional Records Access Clearinghouse at Syracuse University.

Forty-six of those lawsuits came in 2017, making it the busiest calendar year by far for open-records cases brought against EPA, according to data stretching back to 1992. The second-busiest year was 2015, when plaintiffs filed 22 such suits against the agency as it was completing major rules on topics such as wetlands protection and power plants' carbon pollution. The federal government as a whole has seen a rise in lawsuits over public records during Trump's presidency, but not at anywhere near the rapid uptick EPA is experiencing.

Former President George W. Bush's EPA — hardly a darling of the environmental movement — faced only 57 FOIA lawsuits during his entire presidency, according to the database's list of cases.

The agency has been especially slow to resolve information requests directed specifically at Pruitt's office, according to a separate [data analysis](#) that the Project on Government Oversight conducted for POLITICO.

Pruitt's critics say the surge demonstrates how blatantly EPA is flouting the Freedom of Information Act under his reign.

"The FOIA process isn't optional," Sen. [Tom Carper](#) (D-Del.) said in an emailed statement. "The American people are entitled to know what government officials, including Mr. Pruitt, are doing with their time and taxpayer money. Yet, from the agency's refusal to document major environmental policy decisions, to the fictitious '[blanket waiver](#)' that it tried to use to justify Mr. Pruitt's travel expenses, this EPA is evasive when it should be working to be transparent."

EPA has seen a jump in FOIA requests under the Trump administration, especially for information specifically from Pruitt's office. That increase, plus the agency's new emphasis on answering years-old requests before addressing newer ones, has frustrated groups seeking the documents behind Pruitt's rollback of environmental regulations.

From Jan. 20, 2017, to the end of last year, EPA received 11,431 FOIA requests, up about 17 percent compared with an equivalent period during former President Barack Obama's last year in office, according to the analysis by POGO. Requests targeted at Pruitt's office in particular rose fivefold to 1,181.

But Pruitt's office has closed only about 17 percent of the requests that deal specifically with his activities. EPA has been faster to resolve requests to other offices — the agency overall has closed 79 percent of FOIA requests filed since Trump's swearing-in, and its Washington headquarters has closed 57 percent, the POGO numbers show. Closed cases include those in which EPA either provided some or all of the requested documents or declined to provide them.

If EPA ignores a FOIA request for more than a month or rejects it, filers can take the agency to court to try to force it to hand over documents.

The 55 FOIA lawsuits filed against EPA since Trump took office compare with 11 filed in the final 12 months of the Obama administration, according to The FOIA Project's database.

Those lawsuits, filed by groups ranging from Earthjustice to the conservative Cause of Action Institute, are seeking evidence of what businesses Pruitt might have consulted before deciding how to regulate pesticides, what information EPA considered in postponing rules for coal-fired power plants discharging polluted wastewater into waterways, and whether agency staffers are using encrypted messaging apps to evade records laws.

The lawsuits aim to compel EPA to provide Pruitt's calendars and messages, as well as records about Pruitt's plans for holding a debate about the scientific reality of climate change, and what he's said in closed-door speeches to industry groups. The Sierra Club is also seeking documents about how EPA is processing FOIA requests, and two groups — Citizens for Responsibility and Ethics in Washington and Public Employees for Environmental Responsibility — filed a suit last week alleging that Pruitt has illegally told staffers not to take notes.

Environmental groups say they've seen a marked slowdown since Trump took office.

"As the administration has shown us time and time again, they're operating under a cloud of secrecy that is further underscored by agencies like the EPA and their delay tactics by not responding to FOIA requests within the time frame that the statute requires," said Margaret Townsend, an open government staff attorney at an environmental group called the Center for Biological Diversity. "The administration is so favorable to industry at the expense of human health and the environment. The American people don't have the same ability — even though they have the right — to get this information."

Eric Schaeffer, director of the Environmental Integrity Project, said EPA's tactics seem designed to throw sand in the gears of the FOIA process.

"I think the idea is make it take a long time," he said. "Why would you do that? Maybe that will result in fewer requests and less disclosure and maybe [they will] be out of here before some of this stuff starts turning up."

But Lee Steven, assistant vice president at the Cause of Action Institute, said his group has long had trouble getting public records from EPA, even before Pruitt took over.

"We've found that if we really want to get movement on these FOIA requests, we have to sue," said Steven, whose group is suing over records showing which staffers may be using encrypted messaging apps like Signal. "Most institutions that do FOIA requests don't have the resources, time or expertise to do that. That's not how it should be. You should not have to sue as a matter of course."

EPA spokeswoman Liz Bowman said the agency is focused on clearing a backlog of requests left over from previous administrations, while responding to "the large volume of incoming requests." EPA had more than 650 requests open from previous years as of early October and has

since closed 60 percent of them, Bowman said.

FOIA staffers recently participated in a multiday event with EPA's Office of General Counsel to more efficiently process requests submitted to Pruitt's office, and they will take part in another event this month to improve efforts agency-wide, she added.

"This was an intensive effort led by career staff to maximize efficiencies, ensure the best use of resources and improve response time," Bowman said.

EPA critics acknowledge that the FOIA process has always been slow and imperfect, though some say it has degraded even further during Pruitt's tenure. "It's terrible for everyone," Schaeffer said. "When you send your FOIA in you have to really dog it to make sure it goes to the right office and they understand the request. I think there are sort of long-term chronic issues, and I think it's gotten worse."

But environmental groups say EPA is using the backlog as an excuse to withhold current records. They are concerned that senior staffers are vetting the records releases, reviewing the information for politically sensitive details and slowing down the process. They also say EPA is increasingly shooting down their requests as overly broad and asking them for specific search terms, rather than topics or types of communications.

"There's no question in my mind that Scott Pruitt's administrator's office is a serious obstacle to FOIA compliance," said Austin Evers, executive director of the government transparency group American Oversight, which has obtained several months of Pruitt's calendars through court action. "We experience it firsthand every day with straightforward FOIA requests languishing in his office for weeks at a time in a black hole."

Earthjustice is part of a coalition suing for records about EPA's decision to postpone wastewater discharge rules for power plants.

"This is not how government should work," said Thomas Cmar, a staff attorney for Earthjustice. "The intent behind FOIA is that citizens are supposed to have the right to know what their government is up to, and clearly under this administration that's not happening. Even if the process works the way it's supposed to, you don't get your documents until a year after your request."

Public Employees for Environmental Responsibility, one of the watchdog groups suing Pruitt for allegedly telling staffers not to keep records, has also filed a lawsuit seeking communications about how Pruitt decided, in contrast to scientific consensus, that man-made emissions of carbon dioxide aren't warming the planet.

"Virtually all of our EPA requests are going to litigation because there's not any indication there will be production," PEER Executive Director Jeff Ruch said.

Despite criticisms about its lack of transparency, Pruitt's staff has declined to release his schedule ahead of time, contending it would jeopardize his security. In the past few weeks, he

has appeared unannounced in Florida to meet with the state Farm Bureau and Chamber of Commerce, then spoke at an event hosted by the conservative Federalist Society at a Walt Disney World resort. He made a surprise trip to New Hampshire, where he met privately with Gov. Chris Sununu. He had planned a trip to Israel but postponed it after media reports detailing his first-class travel, which were triggered by FOIA responses that EPA released during legal battles with the Environmental Integrity Project.

EPA does post Pruitt's past schedule on a public website, but the listings do not include all his meetings and rarely list attendees or the topics discussed. Some of the calendars Pruitt has released under FOIA lawsuits have also proved to be incomplete.

One updated record released to the Environmental Integrity Project in October included a previously undisclosed March 29, 2017, meeting between Pruitt and an executive from WaterGen, an Israeli company that sells technology that generates drinking water from air condensation. That meeting, the updated calendar noted, "came as a request of Sheldon Adelson," the casino billionaire and Republican megadonor.

Other than suing, groups concerned about how Pruitt is running the agency have little leverage in forcing the agency to open its files, because Republicans control the White House and both chambers of Congress.

Alex Guillén contributed to this report.

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Sheldon Adelson got this company a meeting with Pruitt, now EPA is studying its technology [Back](#)

By Alex Guillén | 03/28/2018 05:01 AM EDT

EPA has signed a research agreement with an Israeli company that Administrator Scott Pruitt met with last year at the request of GOP mega-donor Sheldon Adelson.

The agency will study one of the company's products, an "atmospheric water generator," essentially a giant dehumidifier that pulls drinkable water out of the air.

The company, Water-Gen, pitches its technology as useful for remote areas that lack proper water infrastructure. The devices could also be useful following large-scale disasters that disrupt clean water supplies. Water-Gen sent four water generators to Texas and Florida following Hurricanes Harvey and Irma last year.

"EPA believes in facilitating cooperative research efforts that will foster innovative solutions to pressing environmental issues, and looks forward to working with other companies and

organizations on technology development efforts," Pruitt said in a statement on Tuesday.

Pruitt met on March 29, 2017, with executives from Water-Gen "as a request of Sheldon Adelson," according to copies of his calendar that were released after activists filed a lawsuit. Adelson's relationship with the company is unclear.

In the meeting was Maxim Pasik, Water-Gen's executive chairman. According to Pasik's biography, he is also involved in a company that invests in oil and gas projects and a company that designs "green vertical walls." Also attending was Yehuda Kaploun, president of Water-Gen's U.S. division.

It is not clear whether the executives specifically pitched an R&D agreement at that meeting.

Pasik also had a followup meeting with Pruitt and other officials May 10, according to the administrator's calendar.

EPA did not respond immediately to questions Tuesday night about the meeting or Adelson's involvement. Late-night emails to an Adelson representative and Water-Gen executives were not immediately returned either.

EPA's Office of Research and Development put out the public call for partners to help study atmospheric water generation in September, months after the Pruitt meeting.

The agency signed the research agreement with Water-Gen in January. It was not immediately clear why the agreement was not announced until two months later.

The agreement involves the company lending one of its generators to EPA for at least three months for study at the agency's Cincinnati laboratory. EPA did not pay the company and is not being paid, the agency said.

Known as a Cooperative Research and Development Agreement, or CRADA, the agreement lets EPA work with the company on testing the generators and studying potential uses in the U.S. Such agreements are not unusual. EPA said it entered into eight similar agreements during fiscal year 2017, and dozens of less complex agreements to share data or materials.

Water-Gen has worked in recent years to boost its U.S. profile.

Alan Dershowitz, the prominent American attorney and a member of Water-Gen's board of directors, pitched the technology at last year's gathering of American Israel Public Affairs Committee, just two days before Pruitt's meeting.

Israeli Prime Minister Benjamin Netanyahu gave the company a nod at this year's AIPAC conference earlier this month, saying the technology "improves on Moses," who is described in two sections of the Torah as producing water from a rock.

The specific device EPA is studying, the GEN-350, is a medium-scale generator that can create

600 liters of clean water, or about 160 gallons, each day. It weighs more than 1,700 pounds and can be transported by truck or SUV to remote locations, according to the company's [website](#).

Water-Gen also makes a [smaller version](#) for homes or offices that generates up to eight gallons a day, as well as a [large-scale version](#) it pitches for large buildings that can produce over 1,300 gallons daily. All run on electricity.

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Energy regulator rejects Perry's plan to boost coal [Back](#)

By Darius Dixon and Eric Wolff | 01/08/2018 05:58 PM EDT

Federal energy regulators on Monday rejected Energy Secretary Rick Perry's proposal to prop up struggling coal and nuclear power plants, a major defeat for the former Texas governor and the coal companies that have urged the Trump administration to help them.

Perry had ordered the Federal Energy Regulatory Commission to act by this week to guarantee financial payments to the plants that could be facing retirement because of the rise of natural gas and renewable energy, a strategy that many critics said would undermine the power markets the regulator has spent decades building.

But in a 5-0 decision announced Monday, FERC formally axed Perry's proposal and instead ordered the nation's regional grid operators to submit information about their ability to judge "naturally occurring and man-made threats" to their systems within 60 days. That order essentially puts off any action until at least April, if the agency decides to implement any measures at all.

In a statement, Perry said he was pleased his proposal had sparked a national debate, and said he looked forward to the agency's probe into "the marketplace distortions that are putting the long-term resiliency of our electric grid at risk."

But FERC Commissioner Cheryl LaFleur criticized Perry's effort for failing to show the grid was in danger, and merely trying to "freeze yesterday's resources in place indefinitely."

"I believe the Commission should continue to focus its efforts not on slowing the transition from the past but on easing the transition to the future," she wrote.

And green groups were relieved, with the Sierra Club's Mary Anne Hitt, head of its "Beyond Coal" campaign, praising FERC's decision and saying the whole process was "a comically orchestrated ploy by unscrupulous coal and nuclear executives to handicap their competition because they were foolish enough to think that American electricity customers wanted their dirty, expensive power plants when cheaper, cleaner alternatives are available."

Analysts have said the rule proposed by the Energy Department would have its biggest impact on the PJM power grid that stretches across 13 states from the Midwest to the East Coast, and would be a boon to Murray Energy, a coal mining firm run by Bob Murray, a major Trump backer who has met frequently with Perry and Trump.

DOE's proposal was its latest bid to help "baseload" power sources like coal and nuclear that provide around-the-clock electricity but can't adapt quickly to changes in demand like natural gas power plants can. While coal-fired power plants provided half the nation's electricity a decade ago, the surge in natural gas output has made that fuel the industry's favorite for new power plants. Weak demand for power has also put coal at a disadvantage, since the older, less-efficient plants are not as economic as newer natural gas turbines, and renewables like wind power have gotten cheaper.

FirstEnergy Corp, an Ohio-based utility whose struggling power plant subsidiary is a major customer of Murray's, said it was disappointed in FERC's rejection.

"Without timely action, more of these facilities will close prematurely, jeopardizing the ability to provide clean, reliable and affordable power to customers while harming economies across the region," it said in a statement.

Perry has embraced the controversial effort wholeheartedly and top DOE officials pressed their case at public events, conferences with skeptical state utility regulators, and to pro-market conservative groups.

At a House Energy and Commerce Committee hearing in October, Perry dismissed concerns that his plan would cost consumers several billion dollars a year. "What's the cost of freedom? What does it cost to build a system to keep America free?" he said, contending that the power grid's vulnerabilities posed a threat to national security.

In a September letter to FERC calling for it to act quickly, Perry wrote that "the resiliency of the electric grid is threatened by the premature retirements of these fuel-secure traditional baseload resources." And he said FERC's power markets had failed to take into account the need for keeping coal and nuclear power plants on the system.

But in its Tuesday order, FERC said the feedback it received from grid operators on the Perry proposal "do not point to any past or planned generator retirements that may be a threat to grid resilience."

The effort to support coal power plants has been a central theme for Perry in his first year at DOE. Less than two months after being sworn in, he directed agency staff to conduct a review of federal policies affecting the electric grid, and to probe what "regulatory burdens ... are responsible for forcing the premature retirement of baseload power plants."

However, that study, released in August and following pleas from Murray for DOE to use the agency's emergency power to order the firm's coal customers to keep running, delivered a

conclusion energy experts had long known: Cheap, abundant natural gas was the primary driver of changes in the U.S. electricity sector.

That DOE report had urged FERC to expedite efforts figure out policies to address state programs that favored technologies such as nuclear power, and to update how power producers are paid in regional electricity markets.

But about a month later, Perry submitted his "grid resiliency pricing rule," a proposal that, if enacted, would cover the costs of power plants that keep a 90-day fuel supply on-site and directed FERC to take "final action" by Dec. 11. McIntyre, who was sworn in in early December, requested an extension through Jan. 10.

Monday's order says in addition to the information requested from the power grid operators, it will accept comments from other parties for 30 days after the grid operators' filing deadline.

Democratic Commissioners Cheryl LaFleur and Rich Glick, as well as Republican Commissioner Neil Chatterjee, each issued separate statements explaining their decision to support the order. Kevin McIntyre, a Republican appointed by President Donald Trump, chairs FERC.

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As Congress stalls, Trump quietly overhauls flood program [Back](#)

By Zachary Warmbrodt | 03/27/2018 02:35 PM EDT

The Trump administration is bypassing Congress and quietly overhauling a key government program designed to protect millions of homeowners from the financial perils of flooding.

Seven months after Hurricane Harvey submerged Houston, the spotlight on the National Flood Insurance Program has dimmed and attempts by lawmakers to update it have stalled. But FEMA is using administrative powers to try to expand flood insurance coverage ahead of future storms and offset the government's tab for destructive disasters to come.

The moves, which rely on assistance from the private insurance industry and the broader financial markets, would address shortcomings that Harvey and other historic hurricanes laid bare. Many homeowners don't buy insurance despite flood risks. Many who do purchase coverage overwhelm the program with claims after the most catastrophic storms, drowning it in billions of dollars of Treasury debt as FEMA tries to fulfill obligations to flood victims.

The changes underway inside the program echo proposals that lawmakers have pitched during the past year but have been unable to enact amid political gridlock over what to do — a growing source of frustration for members of Congress.

"It's broken," said Sen. John Kennedy (R-La.), one of the lawmakers who has been pushing flood insurance legislation without success. "We need to fix it."

With Congress calling for change but sidelined by politics, FEMA officials have stepped into the breach, rolling out reforms before the program's 50th birthday this year.

"On the one side, more people need insurance coverage," Roy Wright, who directs the flood program for FEMA, told POLITICO. "Secondly, there should be more private capital backing that risk."

One change the agency will make this year: loosening restrictions on insurance companies that want to offer their own flood coverage. FEMA is lifting a "non-compete" policy that limited the ability of insurers to sell private policies if they also sold flood insurance on behalf of the government as part of its "Write Your Own" program.

Insurers have been lobbying Congress to implement the change, and they applauded FEMA for taking the initiative. Robert Gordon of the Property Casualty Insurers Association of America said it "would allow companies willing to take on flood insurance risk the ability to do so."

"It's a mutual gain," Wright said of the change that would potentially expose his program to further competition from the private sector. "We need more people selling these products."

In addition, FEMA is taking a step that could relieve some pressure on the cost of government-backed flood insurance by trimming compensation the agency pays the private insurers who sell policies for the NFIP. Like the removal of the non-compete clause, it's an idea lawmakers have been debating over the last year.

At the same time, FEMA is making moves to shield the government from overwhelming payouts triggered by catastrophic hurricanes like Harvey, which forced the program to borrow money from the Treasury to cover funds owed to consumers. The flood insurance program has paid out about \$10 billion in the wake of last year's storms — losses only rivaled by 2005, when Hurricane Katrina devastated the Gulf Coast.

Well ahead of last year's deadly hurricane season, the program for the first time acquired reinsurance — insurance for insurers — that would provide \$1 billion in coverage after a storm the scale of Harvey. The resulting payout was money the NFIP didn't have to borrow from Treasury.

FEMA expanded its reinsurance purchase this year, and is actively weighing whether to move even deeper into financial markets by tapping other kinds of securities — a decision that's expected to be made in the coming weeks.

The moves are just a few of the potential reforms the administration has started to implement.

Wright, who took the helm of the program three years ago, spent the early part of his tenure

focused on addressing a major controversy after Hurricane Sandy that flood insurance policyholders weren't being paid fairly. He touts improvements to the program's quality controls, the way it deploys people on the ground after disasters and how it educates policyholders.

"We had been putting in place administratively a whole series of changes in the post-Sandy world, where clearly there were things in the program that needed to be fixed," he said. "If it's covered, we're going to pay it, and I think that's what people are seeing."

Attention returned to the NFIP last year when a series of powerful hurricanes coincided with the program's Sept. 30 expiration, a deadline set by Congress when it passed reform legislation in 2012. With big questions hanging over the NFIP's future, the administration sent more than a dozen proposals to lawmakers, who had already begun working on bills for the next long-term renewal.

The White House's wish list included removing the restrictions on private flood insurance, broadening FEMA's ability to enter into additional kinds of arrangements with commercial insurers, addressing homes with repetitive flood losses and tackling affordability concerns.

Congress last year took care of one of the biggest asks — canceling \$16 billion of the program's debt, which by late September had hit the limit of the NFIP's \$30 billion borrowing authority. It provided breathing room for the flood program, which pays hundreds of millions of dollars per year in interest to the Treasury.

But beyond forgiving the debt, Congress has been unwilling to enact additional changes. The program has coasted since last year on a series of short-term extensions tied to government funding bills.

That dynamic shifted last week when Congress decoupled the program's expiration from that of government funding, setting up a game of chicken between the House and the Senate that will have to be resolved by the next reauthorization deadline of July 31. The bill, [H.R. 1625 \(115\)](#), also increased funding for flood hazard mapping and pre-disaster mitigation.

The House in November passed a five-year NFIP reauthorization bill, but the Senate has failed to act. The House legislation, [H.R. 2874 \(115\)](#), would remove restrictions on private flood insurance and require the program to cede risk to the financial markets, among other changes.

"I am hopeful that this puts pressure on the Senate to actually work on a bill so that we can restore solvency to the NFIP," said Rep. [Sean Duffy](#) (R-Wis.), who negotiated the House legislation. "The Trump administration has taken cues from the House-passed bill and is implementing provisions on their own as a result of inaction in the Senate. This should send a clear signal to the Senate to act with a sense of urgency for the sake of saving the NFIP."

Negotiations in the Senate are unresolved. The legislation falls under the jurisdiction of the Senate Banking Committee, which has been consumed with moving a landmark bank deregulation bill, [S. 2155 \(115\)](#).

"There should be a way," Senate Banking Chairman [Mike Crapo](#) (R-Idaho) said in early March. "I still hope we can get there."

Separating the flood insurance program's expiration date from government funding alarmed coastal lawmakers — the new deadline falls during hurricane season — but also disappointed some insurance industry lobbyists who are so unhappy with some of the reforms Congress has come up with that they would rather see a straight reauthorization bill without big changes.

For example, insurers who sell flood policies on behalf of the government have resisted proposals that would cut their compensation beyond what FEMA is proposing to do administratively. The firms are also concerned about additional measures proposed by coastal representatives who want to strengthen the hand of consumers in disputes over flood insurance coverage.

"The provisions being kicked around by the Louisiana and New Jersey delegations are so bad that it's not worth having any more negotiations," said one lobbyist who declined to be identified. "Better to kick the can than kick these around."

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